

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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JOSHUA SCHLEIFER,

17-CV-08789 (AJN) (RWL)

Plaintiff,

- against -

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LEXUS OF MANHATTAN et al.,

Defendants.

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ORDER

Plaintiff's request concerning Defendant's production of the list of customers receiving the texts at issue (Dkt. 111) is resolved as follows:

This putative class action stems from texts sent to a previous Honda of Manhattan customer. The texts sought to introduce previous Honda of Manhattan customers to Lexus of Manhattan service. As the Second Amended Complaint alleges, the unsolicited text initiating the exchange read as follows: "Good morning, this is Jen, the service concierge from Lexus of Manhattan. Can I text you regarding a special maintenance offer for your Honda Vehicle." (Second Amended Complaint ¶ 20.) Notwithstanding Plaintiff's expansive proposed class definition ("All persons within the United States, who received any unsolicited text message from Defendants..."), the discovery sought by Plaintiff is neither relevant nor proportionate to what actually is at issue in this litigation, and it comes far too late in the litigation (as Defendant Lexus of Manhattan produced the customer list in June 2018). Accordingly, the request for a conference is denied, and the request to compel production of a class list beyond customers of Honda or Manhattan that received the solicitation is denied.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: December 5, 2019
New York, New York

Copies transmitted this date to all counsel of record.